

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

6 DARRYL CARTER,
7 Plaintiff,
8 vs.
9 UNITED STATES DEPARTMENT OF
0 JUSTICE,
Defendant.

Case No: C 18-2455 SBA

ORDER TO SHOW CAUSE RE DISMISSAL

UNITED STATES DEPARTMENT OF
JUSTICE.

Defendant.

Plaintiff Darryl Carter filed this pro se action to obtain documents from the Defendant under the Freedom of Information Act (“FOIA”). On May 14, 2018, the Court issued a Case Management Scheduling Order for Reassigned Civil Case setting a Case Management Conference (“CMC”) for August 2, 2018 at 2:45 p.m.

16 The Court called this case for an initial CMC, as scheduled above. Defendant
17 appeared; Plaintiff did not. Counsel for Defendant (“Counsel”) informed the Court that he
18 had twice attempted to reach Plaintiff at the telephone number listed on his filings in order
19 to join him on the conference call to the Court for the CMC. Both times Counsel
20 encountered a message which stated: “Subscriber not in service.” Counsel also indicated
21 that he had emailed Plaintiff on August 1, 2018, to remind him about the CMC, but
22 received no response.

23 Plaintiff's failure to appear is unexcused, violates the Local Rules and the Court's
24 Orders, and may result in the dismissal of the action under Federal Rule of Civil Procedure
25 41(a). See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992) ("Pursuant to Federal

1 Rule of Civil Procedure 41(b), the district court may dismiss an action for failure to comply
2 with any order of the court.”).¹ Accordingly,

3 IT IS HEREBY ORDERED THAT Plaintiff shall show good cause in writing why
4 this action should not be dismissed for failing to appear at the CMC. The written response
5 must be filed by **August 17, 2018**. Plaintiff’s failure to fully comply with this order,
6 including the submission of a timely written response, will be deemed sufficient grounds to
7 dismiss the action, without further notice.

8 IT IS SO ORDERED.

9 Dated: August 3, 2018


SAUNDRA BROWN ARMSTRONG
Senior United States District Judge

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26 ¹ Counsel also informed the Court that he has repeatedly provided Plaintiff with
27 documents responsive (“Documents”) to his FOIA request. Production of the Documents
28 may moot Plaintiff’s claims. See Papa v. United States, 281 F.3d 1004, 1013 (9th Cir.
2002). In the event the instant action is not dismissed under Rule 41(b), Defendant may
bring a motion for summary judgment in accordance with the evidentiary requirements set
forth in Papa.